

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during the First Regular Session of the 124<sup>th</sup> Maine Legislature coming from the

**JOINT STANDING COMMITTEE ON LABOR**

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# STATE OF MAINE

124<sup>TH</sup> LEGISLATURE  
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## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 124<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CARRIED OVER.....	Carried over to a subsequent session of the Legislature
CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY.....	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed; bill died
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted; bill died
P&S XXX.....	Chapter # of enacted Private & Special Law
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 124<sup>th</sup> Legislature is September 12, 2009. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

## Joint Standing Committee on Labor

Maine Public Employees Retirement System is automatically insured and is eligible for coverage under the group life insurance program provided to employees of the Maine Community College System in the same manner as a new employee of the Maine Community College System. Such an employee does not need to provide evidence of insurability in order to receive coverage under the group life insurance program provided to employees of the Maine Community College System.

### Committee Amendment "A" (S-183)

This amendment corrects an oversight in Public Law 2001, chapter 545 and Public Law 2003, chapter 261 whereby the intent was for Maine Community College System employees to be able to return to membership in the Maine Public Employees Retirement System, including participation in the group life insurance program. The amendment also establishes a time frame during which certain confidential employees of the Maine Community College System may establish group life insurance coverage with the Maine Public Employees Retirement System.

### Enacted Law Summary

Public Law 2009, chapter 236 corrects an oversight in Public Law 2001, chapter 545 and Public Law 2003, chapter 261 whereby the intent was for Maine Community College System employees to be able to return to membership in the Maine Public Employees Retirement System, including participation in the group life insurance program. The amendment also establishes a time frame during which certain confidential employees of the Maine Community College System may establish group life insurance coverage with the Maine Public Employees Retirement System.

Public Law 2009, chapter 236 was enacted as an emergency measure effective June 2, 2009.

**LD 1292**

### **An Act To Provide More Transparency and Protection for Public Employees in the Laws Governing the Maine Public Employees Retirement System**

**PUBLIC 322**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL E	OTP-AM	S-285

This bill provides more transparency, accountability and protection for public employees with respect to the processes and policies of the Maine Public Employees Retirement System. The bill:

1. Provides that the executive director of the retirement system be appointed by the Governor subject to confirmation by the Senate;
2. Provides that persons providing information to prospective retiring public employees be well trained and knowledgeable about retirement system laws and rules and be able to provide this information in understandable terms;
3. Provides that mistakes by public employees or employees of the retirement system in regard to retirement system benefits, including overpayments, may not result in punitive and unreasonable penalties that result in reducing benefits below a livable income;
4. Provides that public employees who enroll in the retirement system must be reviewed by the retirement system no later than 60 days following enrollment in regard to eligibility for benefits under the retirement system;
5. Authorizes hearing examiners to make final decisions about disability benefits and other benefits based on all the data and evidence presented at the hearing, including information provided by treating physicians, public officials, witnesses, the medical board and other sources;

## *Joint Standing Committee on Labor*

6. Provides that the opinions of an applicant's treating medical provider must be accorded controlling weight unless the substantial evidence of record compels a contrary conclusion;
7. Requires the board of trustees to communicate with administrative staff throughout the retirement system at least once a year in regard to issues of concern to the staff;
8. Requires the medical board, the executive director or the board of trustees, prior to making any adverse recommendations regarding a disability case, to meet with the applicant or the applicant's attorney to provide the criteria, standards and reasons, including medical criteria on which the decisions of the medical board are based;
9. Requires the medical board to which a disability retirement request has been referred to be composed of physicians whose practices involve or have involved the treatment of the physical or mental conditions on which the case of the applicant is based;
10. Establishes as a purpose of the retirement system the provision of and preservation of access to disability benefits and a reasonable and decent quality of life for members of the retirement system, including individuals who become disabled. This provision is given equal weight with the integrity and financial well-being of the retirement system;
11. Requires additional information as part of the retirement system's annual report to include information regarding the number of state employees, teachers and participating district employees who retired and the amount of retirement payouts, the number of persons who applied for disability retirement and the number denied disability retirement in the previous year and the number of applicants who were denied disability retirement following submission of additional information and following applicants' appeals; and
12. Overrules a decision of the Superior Court that discriminates against all employees who take more than 30 days of unpaid leave during any period of their last 5 years of retirement system service, regardless of their total service in the retirement system.

### **Committee Amendment "A" (S-285)**

This amendment provides more transparency, accountability and protection for public employees with respect to the processes and policies of the Maine Public Employees Retirement System. The amendment:

1. Provides that persons providing information to prospective retiring public employees be well trained and knowledgeable about retirement system laws and rules and be able to provide this information in understandable terms;
2. Provides that mistakes by public employees or employees of the retirement system in regard to retirement system benefits, including overpayments, may not result in unreasonable penalties and recovery must consider personal economic stability;
3. Authorizes hearing officers to make recommended final decisions and requires such decisions to be made on the record as a whole;
4. Implements a finding of the court that opinions of the medical board are advisory only;
5. Affords equal weight to medical evidence, regardless of the source of that evidence;
6. Entitles a member or retiree along with counsel an opportunity to an informal hearing prior to any adverse decision by the retirement staff;

## *Joint Standing Committee on Labor*

7. Requires the Board of Trustees of the Maine Public Employees Retirement System to attempt to appoint to the medical board physicians chosen from those fields of medicine for which the retirement system receives the greatest number of applications for disability retirement benefits;
8. Requires additional information, as part of the retirement system's annual report, including the number of individuals who retired in the previous calendar year categorized by plan status; the number of new active members of the retirement system who became members during the previous year, by plan status; the amount of earnings on investment in the previous calendar year; the total amount of employee and employer contributions to the retirement system in the previous calendar year and the total amount of payout to retirees, categorized by plan status; and the number of persons who applied for disability retirement during the previous calendar year;
9. Addresses a decision of the Superior Court that discriminates against all employees who take more than 30 days of unpaid leave during any period of their last 5 years of retirement system service, regardless of their total service in the retirement system;
10. Provides that a member whose employer wrongly or incorrectly enrolls a member in the Maine Public Employees Retirement System does not lose any retirement benefits. The State does not bear responsibility for the employer's mistake; and
11. Requires the Maine Public Employees Retirement System to report back to the Joint Standing Committee on Labor with the results of the implementation of the changes required by this legislation by January 10, 2010. The joint standing committee may report out legislation in the Second Regular Session of the 124th Legislature.

### **Enacted Law Summary**

Public Law 2009, chapter 322 provides more transparency, accountability and protection for public employees with respect to the processes and policies of the Maine Public Employees Retirement System. The amendment:

1. Provides that persons providing information to prospective retiring public employees be well trained and knowledgeable about retirement system laws and rules and be able to provide this information in understandable terms;
2. Provides that mistakes by public employees or employees of the retirement system in regard to retirement system benefits, including overpayments, may not result in unreasonable penalties and recovery must consider personal economic stability;
3. Authorizes hearing officers to make recommended final decisions and requires such decisions to be made on the record as a whole;
4. Implements a finding of the court that opinions of the medical board are advisory only;
5. Affords equal weight to medical evidence, regardless of the source of that evidence;
6. Entitles a member or retiree along with counsel an opportunity to an informal hearing prior to any adverse decision by the retirement staff;
7. Requires the Board of Trustees of the Maine Public Employees Retirement System to attempt to appoint to the medical board physicians chosen from those fields of medicine for which the retirement system receives the greatest number of applications for disability retirement benefits;
8. Requires additional information, as part of the retirement system's annual report, including the number of individuals who retired in the previous calendar year categorized by plan status; the number of new active members of the retirement system who became members during the previous year, by plan status; the amount of earnings on

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investment in the previous calendar year; the total amount of employee and employer contributions to the retirement system in the previous calendar year and the total amount of payout to retirees, categorized by plan status; and the number of persons who applied for disability retirement during the previous calendar year;

9. Addresses a decision of the Superior Court that discriminates against all employees who take more than 30 days of unpaid leave during any period of their last 5 years of retirement system service, regardless of their total service in the retirement system;

10. Provides that a member whose employer wrongly or incorrectly enrolls a member in the Maine Public Employees Retirement System does not lose any retirement benefits. The State does not bear responsibility for the employer's mistake; and

11. Requires the Maine Public Employees Retirement System to report back to the Joint Standing Committee on Labor with the results of the implementation of the changes required by this legislation by January 10, 2010. The joint standing committee may report out legislation in the Second Regular Session of the 124th Legislature.

**LD 1361      *Resolve, Directing the Department of Labor and the Department of Health and Human Services To Establish a Work Group To Clarify the Working Status of Respite Care and Shared Living Residential Service Providers for Individuals with Developmental Disabilities***

**RESOLVE 96**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	S-229

This bill exempts services performed by certain direct support providers, including respite care providers, from the definition of "employment" in the laws governing unemployment compensation and exempts certain direct support providers from the definition of "employee" in the laws governing minimum wages and workers' compensation.

**Committee Amendment "A" (S-229)**

This amendment creates a resolve that directs the Commissioner of Labor and the Commissioner of Health and Human Services to create a work group that includes the representatives from each department and members of the Workers' Compensation Board, the Maine State Employees Association and the Maine Association of Community Service Providers to examine the services and tasks performed by respite care and shared living residential service providers for adults and children with developmental disabilities to determine if there are ways to clearly identify the working status of those providers. The work group is directed also to examine whether statutory or regulatory actions are needed to provide clarification of the providers' status. The Commissioner of Labor and the Commissioner of Health and Human Services are directed to report the work group's findings and any recommendations to the Joint Standing Committee on Labor by December 15, 2009. The Joint Standing Committee on Labor is authorized to introduce legislation during the Second Regular Session of the 124th Legislature.

**Enacted Law Summary**

Resolve 2009, chapter 96 directs the Commissioner of Labor and the Commissioner of Health and Human Services to create a work group that includes the representatives from each department and members of the Workers' Compensation Board, the Maine State Employees Association and the Maine Association of Community Service Providers to examine the services and tasks performed by respite care and shared living residential service providers for adults and children with developmental disabilities to determine if there are ways to clearly identify the working status of those providers. The work group is directed also to examine whether statutory or regulatory actions are needed to provide clarification of the providers' status. The Commissioner of Labor and the Commissioner of Health and Human Services are directed to report the work group's findings and any recommendations to the Joint Standing